



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: H. David Feltoon  
File: B-232418  
Date: January 5, 1989

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### DIGEST

Decision to cancel solicitation and perform work in-house is proper where agency reasonably determines that interests of government are best served if work is performed in this manner.

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### DECISION

H. David Feltoon protests the Department of the Navy's cancellation of request for proposals (RFP) No. N00406-88-R-0615, for counseling services at a naval family service center (FSC) at the Naval Supply Center, Puget Sound, Washington. Feltoon principally contends that the contracting officer's decision to cancel the solicitation after proposals had been submitted was improper and made in bad faith, and that Feltoon therefore should be awarded the contract as the low, acceptable offeror.

We deny the protest.

The RFP, issued on April 1, 1988, contemplated award of a firm, fixed-price contract for 1 year plus 2 option years. Following two rounds of best and final offers to clarify the resumes and personnel offered, Feltoon was the low, technically acceptable offeror. The contracting officer then requested that the Defense Contract Administration Services Management Area (DCASMA) perform a pre-award survey on Feltoon. Based on the survey, DCASMA found Feltoon's technical capacity unsatisfactory and made a negative recommendation to the contracting officer. The contracting officer proceeded to find the firm nonresponsible and referred this determination to the Small Business Administration (SBA) for consideration under its certificate of competency (COC) procedures. The SBA issued a COC based on its conclusion that Feltoon was in fact a responsible prospective contractor.

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Prior to the contracting officer's receipt of the COC, in mid-August, the FSC received a memorandum issued by the Naval Military Personnel Command making many changes in the credentialing requirements for counselors and therapists. The FSC considered these to be major changes, and the contracting officer advised the activity that it would be in the government's best interest to cancel the RFP and perform the services in-house. In addition, in a position paper dated July 27, 1988, to the base commander, it was recommended that the function be performed in-house to avoid several problems, including a lack of continuity in the counseling services, particularly in the unique circumstances of Navy families; possibly inadequate supervisory controls to avoid a prohibited personal services contract situation; higher costs; and inadequate quality control. These recommendations were accepted, and the solicitation was canceled on August 22.

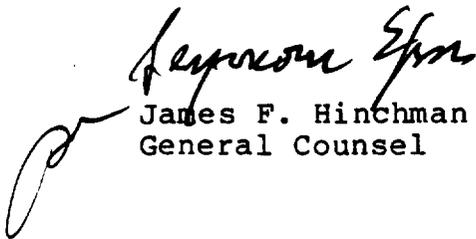
Feltoon contends that the Navy's decision to cancel the solicitation and perform the services in-house was not reasonable. The protester believes counseling military personnel and their dependents can best be accomplished by non-government personnel since confidentiality is more easily assured. The protester similarly contends that a contract award would provide sufficient continuity of counseling since the contract could extend for 3 years if the options were exercised. Feltoon believes the other bases offered by the Navy are equally unsupportable, and that the Navy really was motivated here by a desire to avoid awarding it a contract.

There is no evidence to support Feltoon's claims that the cancellation was based on other than appropriate considerations. While it is clear that the protester disagrees with the Navy's conclusions regarding the advisability of having the counseling services performed in-house rather than by contract, the record shows that the Navy, in fact, canceled the solicitation because of its belief that performance of the services in-house would best serve the interests of the government. In this regard, we think the Navy reasonably determined that continuity of services would best be achieved through the indefinite in-house performance of this function; under a contract, even if both option years were exercised, the services would extend only 3 years, not indefinitely. The agency's position takes into account the fact that families may seek counseling services over a period of greater than 3 years and, more importantly, the fact that some families would not begin counseling until the end of the 3-year contract period. Similarly, we have no reason to disagree with the Navy's conclusion that it can more effectively control the quality of services if

performed by agency personnel. Accordingly, we find the cancellation reasonable and not based on improper considerations. See American Management Co.--Request for Reconsideration, B-228280.2, Mar. 7, 1988, 88-1 CPD ¶ 242 (to show bias or bad faith, a protester must submit essentially irrefutable proof that the contracting agency directed its actions with the specific and malicious intent to injure the protester).

Feltoon also argues that the decision to perform this function with agency personnel was improper because the Navy failed to conduct a cost comparison in accordance with Office and Management Budget Circular A-76 to measure the relative costs of in-house versus contractor performance of this activity. An agency's decision to perform services in-house, however, need not be based upon the results of a cost comparison conducted in accordance with these procedures. See RAI, Inc., B-231889, July 13, 1988, 88-2 CPD ¶ 48.

The protest is denied.



James F. Hinchman  
General Counsel